THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.16703 of 2000

Dated:30.04.2007

Between
K.Bikshapathy

.....Petitioner

and

1.Labour Court-III,
Hyderabad, rep., by its
Presiding Officer
and another.

...Respondent

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.16703 of 2000

ORDER:

This writ petition is filed challenging award dated 19.3.1993 made in I.D.No.221 of 1992 on the file of the Labour Court-III, Hyderabad.

The petitioner is the workman and 2nd respondent is the Andhra Pradesh State Road Transport Corporation (for short 'the Corporation).

It appears that the petitioner joined as a Conductor in the respondent-Corporation with effect from 11.11.1975. While he was performing his duties on the route Hyderabad to Vijayawada on 28.7.87, a check was exercised by the checking officials. They found some cash and ticket irregularities and on

31.7.87 a charge sheet was issued. After conducting a detailed enquiry into the matter, by following the procedure as required under the law, the Disciplinary Authority passed an order of removal from service against the petitioner on 12.4.1988. Aggrieved by the same, the petitioner preferred an appeal and further a revision. The appeal as well as the revision were dismissed. Ultimately, he raised a dispute under Section 2-A (2) of the Industrial Disputes Act, 1947 before the Labour Court contending that his removal from service was illegal and no procedure as required under the law was followed while conducting the domestic enquiry and he was not given fair and proper opportunity to defend himself. He further contended that the charges were not proved and the findings are contrary to the evidence on record. Even assuming that the charges are proved, the punishment of removal from service is disproportionate to that of the alleged misconduct.

A detailed counter-affidavit has been filed before the Labour Court by the respondent-Corporation, wherein it was stated that on 28.7.87 while performing the duty as conductor of Bus No.8405 on the route Hyderabad to Vijayawada, petitioner committed misappropriation of the revenues of the Corporation. The bus arrived at Suryapet at 3.30 hours and at that time the petitioner sent one person by name M.V.Ramulu (Ex-conductor of Devarkonda Depot) by giving a way bill No.41640 to get 5 ticket blocks of 0.25 denomination. The said Ramulu managed to get 5 ticket blocks bearing No.154/662200 to 662600 from the A.D.C. Later, Ramulu handed over the way bill to the petitioner by keeping the ticket block with him. This transaction was being observed by one P.V.Rao, Traffic Inspector of Suryapet squad. The said Traffic Inspector questioned M.V.Ramulu for possession of the ticket blocks and at that time Ramulu tried to run away from there, he was

chased and caught with the help of police. He was handed over to the Traffic Supervisor, who gave a police report and the ticket blocks from Ramulu were seized and obtained a statement from him. The ADC Pandari who issued the ticket blocks on the way bill also gave a statement that the petitioner deputed Ramulu and on that, he issued the ticket block to him. On the report of the Traffic Supervisor a preliminary inquiry was conducted by the Chief Inspector who recorded the statements. Basing on the preliminary inquiry report, the Depot Manager, Suryapet issued order of suspension, charge sheet and thereafter, he was removed from service on conducting a detailed enquiry.

In support of his claim, the petitioner examined himself as WW1 and marked Ex.W1 to W5. On behalf of the respondent-Corporation, MWs 1 to 3 were examined and Exs.M1 to M17 were marked.

After a detailed consideration of the entire

evidence on record, the Labour Court came to the conclusion that the enquiry conducted by the respondent-Corporation was fair, proper and valid. Further it was held that as the charges are proved, the next aspect to be considered is whether the penalty of removal inflicted by the respondent as a measure of disciplinary action under the Conduct Regulations is justified or not. It was held that in the present case, an attempt to defraud the revenues has been made and the same was averted. Thus, in the facts and circumstances of the case and also to meet the ends of justice, it is necessary to modify the punishment of removal. As such, the respondent-Corporation was directed to reinstate the petitioner into service with continuity of service and his pay should be fixed at the minimum of the time scale as that of a fresh conductor. Aggrieved by the same, the present writ petition is filed.

Heard both sides.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned award and other material made available on record.

The charges are grave in nature. The petitioner as a conductor handed over the way bill to one Ramulu, who has nothing to do with the operation of the bus and allowed him to take five bundles of 0.25 denomination tickets from Assistant Depot Clerk at Suryapet. Learned counsel for the petitioner stated that he is innocent and he is nothing to do with the taking delivery of the tickets. But in the evidence it was found that the way bill was intact and it was with him and when the way bill was verified at Vijayawada, it was noticed that the said Ramulu received 5 bundles of tickets of 0.25 paise denomination, and there was no answer from the petitioner for the same. In fact, I am of the opinion that the Labour Court has taken a lenient view of the

matter, in view of his length of service, and therefore, passed an order of reinstatement with continuity of service and further directed the Management to fix his pay at the minimum time scale. I see no ground to interfere with the well reasoned order passed by the Labour Court under Article 226 of the Constitution of India. Writ petition is devoid of merits and is liable to be dismissed.

Accordingly, writ petition is dismissed. No costs.

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30-04-2007

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